

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Hayden Analyst: Roger Lackey Bill Number: SB 1710

Related Bills: See Prior Analysis Telephone: 845-3627 Amended Date: 06-08-2000

Attorney: Patrick Kusiak Sponsor:

SUBJECT: The 2000 Public Subsidies, Public Benefits Act/Taxpayers Request To FTB
Bus. Tax Expenditure Inf. & FTB Collect & Report To Legislature

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as amended May 31, 2000.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED May 31, 2000, STILL APPLIES.

OTHER - See comments below.

SUMMARY OF BILL

This bill would create the 2000 Public Subsidies, Public Benefits Act. It would require certain legislative entities to review the economic and employment impact of state business tax expenditures and all other public subsidies no later than December 31, 2005.

Further, it would require taxpayers to provide the Franchise Tax Board (FTB) specific information regarding the taxpayer's "business tax expenditures."

This analysis will address the bill only to the extent it impacts the department.

SUMMARY OF AMENDMENTS

The June 8, 2000, amendments deleted the FTB as the agency to which taxpayers would report their total investment as a result of a public subsidy. The taxpayer receiving a public subsidy would report certain information to the department or agency that provided the subsidy.

The amendments eliminated the reporting of the taxpayer's investment in real property and the reporting of any violations of employment laws. The taxpayer now would only report to the FTB the number of full-time employees employed by the taxpayer in this state.

The amendments also deleted the wording that the taxpayers would report information "only in the form and manner that is capable of disclosure." Since the number of employees is not confidential tax information, this deletion should not have an impact.

Board Position:

<u> </u> S	<u> </u> NA	<u> </u> NP
<u> </u> SA	<u> </u> O	<u> </u> NAR
<u> </u> N	<u> </u> OUA	<u> </u> X PENDING

Legislative Director

Date

Johnnie Lou Rosas

6/21/00

The June 8, 2000, amendments resolved the department's implementation concerns regarding public subsidies; however, it did not resolve all of the concerns addressed in the department's analysis of the bill as amended May 31, 2000. The remaining concerns have been included.

Implementation Considerations

This bill would provide that the Legislative Analyst's Office (LAO), in consultation with the Senate and Assembly Revenue and Taxation Committees and the Legislature, review each business tax expenditure. However, the information required to be reported by the taxpayer to the FTB (number of full-time employees) would not be sufficient to provide the LAO the necessary information to review each business tax expenditure. If it is intended that tax return information be used to review business tax expenditures, the time required for the department to compile statistics may make the review by the LAO and the Legislature of each existing "business tax expenditure" by December 31, 2005, difficult to accomplish.

State tax law contains a number of distinctions between types of taxpayers. For example, the minimum franchise tax for certain corporations involved in gold or quicksilver mining is \$25, rather than \$800. Limited liability companies are required to pay an \$800 annual tax and a fee, while limited liability partnerships pay only an \$800 annual tax. S Corporations are not subject to the alternative minimum tax and pay a lower franchise tax rate than other corporations. Individuals are taxed at graduated rates ranging from 1% to 9.3%. Many organizations, such as churches and nonprofit charities, are exempt from taxation, except in limited cases when nonprofit organizations have unrelated business taxable income. It is unclear whether these and the numerous other differences in tax treatment would be considered "special tax rates" or "other preferences."

It is unclear how the department would verify the accuracy of a taxpayer's reporting of the number of full-time employees. The Employee Development Department would have much better records regarding the number of full-time employees. In addition, while taxpayers would be required to report specific information to FTB, the bill provides no penalty if taxpayers fail to comply with the reporting requirements.

BOARD POSITION

Pending.